

WORKPLACE STANDARDS



WAGES

AND

HOURS

A QUICK GUIDE FOR WAGE AND HOUR
STANDARDS IN MISSOURI



DIVISION OF
LABOR
STANDARDS

MINIMUM WAGE

Most employers must pay their employees the state minimum wage rate. (Employers engaged in retail or service businesses with annual gross incomes of less than \$500,000 are not required to pay the state minimum wage rate.) Tipped employees must be paid half of the state minimum wage rate. However, if the tipped employee does not make up the other half of the minimum wage in tips, the employer is required to pay the difference. Employers not subject to the minimum wage law can pay employees wages of their choosing.

Employees who feel they have not been compensated appropriately should file a complaint with the Division of Labor Standards (DLS). Visit www.labor.mo.gov/DLS/minimumwage for current state and federal minimum wage rates or to file a complaint.

REDUCTIONS/DEDUCTIONS FROM AN EMPLOYEE'S WAGES

Reduction - An employer may reduce an employee's wages, provided the employee is given a 30-day advance written notice of a reduction in wages. This notice requirement does not apply if an employee is asked to work fewer hours or changes to a different position with different duties. Any company or corporation violating this requirement shall pay each affected person \$50, which can be recovered through court action.

Deduction - An employer may deduct funds from an employee's wages for cash register shortages, damage to equipment, repayment of a cash advance or loan, for purchases made at the place of business, or for similar reasons. Deductions can be made from an employee's wages as long as the deductions do not take the employee's wages below the required minimum wage rate.



WORK HOURS, TRAVEL, AND OVERTIME PAY

Work Hours - There is no minimum or maximum number of hours an employee may be scheduled or asked to work. This is in accordance with the Fair Labor Standards Act. Both Missouri and federal labor laws require most employers to pay or compensate their employees for the number of actual hours worked.



Travel Time - Generally, time spent commuting from home to the workplace is not considered work time. However, time spent traveling during normal work hours as part of the job is considered work time and employees are entitled to be paid for this travel time. Such travel time will be taken into account as work time in determining whether employees have been paid the minimum wage rate.

Overtime Pay - Employers must pay at least one and one-half times the employee's regular rate of pay when overtime pay is in effect. Overtime pay begins once an employee works more than 40 hours in a work week. Overtime pay is not required under the federal or state minimum wage laws when an employee works more than 8 hours in a day, so long as the employee has not worked more than 40 hours in a work week. State and federal laws do not allow employees to voluntarily waive their rights to overtime pay and accept straight time instead. Any employer that asks an employee to do so violates the law. For more information about overtime compensation and work hours, see Chapter 290.505, RSMo.

DISCHARGED EMPLOYEE AND FINAL WAGES

Missouri follows the Employment-At-Will Doctrine. This means that both the employer and employee can terminate the employment relationship **at any time and for any reason**, as long as there is no employment contract to the contrary, there is no discrimination under civil rights

laws (based on race, color, age, national origin, religion, ancestry, sex, or physical/mental disability), no merit laws apply, or the state's limited public policy exception does not apply. Under Missouri's limited public policy exception to the Employment-at-Will Doctrine, an employer may not discharge an at-will employee for (1) refusing to violate a law; (2) reporting violations of the law; (3) acting in a manner strongly encouraged by public policy; or (4) asserting a legal right, for example, filing a workers' compensation claim.



Employers are required to pay a discharged employee all wages due at the time of dismissal. State law does not require payment of earned vacation time at the time of termination.

However, an employee has the right to attempt recovery of earned vacation time through the courts.

BREAKS, LUNCHES, AND PERSONAL TIME OFF

Missouri law does not require employers to provide employees, including youth workers, a break of any kind, including a lunch hour. These provisions are either left up to the discretion of the employer, can be agreed upon by the employer and employee, or may be addressed by company policy or contract.

VACATION PAY AND SICK LEAVE

Employers are not required to provide vacation pay, holiday pay, or severance pay – these are benefits given at an employer's discretion. The exception would be instances where an employer has entered into a contract where certain benefits are established by agreement.

Employers are not required to offer paid sick leave or any other type of paid fringe benefit; this is left up to the employer's discretion, or to any contract agreement the employer



may have with its employees. Likewise, an employer may provide sick leave and vacation benefits to one group of employees, but not to others, as long as the employer does not discriminate based upon age, race, sex, religion, national origin, etc.

ILLNESS AND FMLA PROTECTIONS

If an employee missed work due to either his or her own illness, or to that of a family member, the employee may qualify for job protections under the Family and Medical Leave Act, which is a federal law administered by the U.S. Department of Labor (USDOL). Missouri has no comparable state law.

PREVAILING WAGE

Missouri's Prevailing Wage Law preserves local wage rates by establishing a minimum wage rate that must be paid to workers on public works construction projects, such as bridges, roads, and government buildings, in Missouri.



The prevailing wage rate differs by county and type of work performed.

The prevailing wage applies to all public works projects constructed by or on behalf of state and local public bodies.

The Missouri Prevailing Wage is established based on wage information from actual construction projects provided by public entities, commercial contractors, labor organizations and interested parties. As hours of work are completed, a contractor should submit a "Contractor's Wage Survey" to the DLS.

To submit the Contractor's Wage Survey electronically, visit **www.labor.mo.gov/forms/PWS** or submit a Form LS-04 in paper format.

To learn more about the law, rules, current prevailing wage rates, or to file a wage complaint, visit **www.labor.mo.gov/DLS/prevailingwage**.

AUTHORITY OF THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

While the DLS does not have the authority to legally compel employers to pay employees the wages they are owed, the DLS does investigate all wage complaints. The DLS encourages workers to file a wage complaint if they feel they have not been properly compensated. It also is the

employees' right to take legal action and seek relief through the courts. If the amount due in back wages is less than \$5,000, workers may file their claim in Small Claims Court, where costs are less and it is easier to proceed without hiring private legal counsel. Individuals attempting to recover amounts above \$5,000 should pursue a private right of action in circuit court.



Even if an employee expected to be paid at a rate higher than the minimum wage rate, the DLS can only determine back wages due to the employee based on the difference between the wages actually received and the statutorily required minimum wage rate. However, an employee may have a basis (such as an employment contract requiring payment at the higher wage rate) to pursue a private legal remedy with regard to the remaining wages. *(If the Prevailing Wage Law applies, the DLS can only calculate the wages due based on the difference between the wages actually received and the applicable prevailing wage rate.)*

DISCRIMINATION

The Missouri Human Rights Act prohibits discrimination in any aspect of employment based on race, color, religion, national origin, ancestry, sex, disability, and age, including:

- Hiring and firing
- Compensation, assignment, or classification of employees
- Transfer, promotion, layoff, or recall
- Job advertisements
- Recruitment
- Testing
- Use of company facilities
- Training and apprenticeship programs
- Fringe benefits
- Pay, retirement plans, or disability leave
- Other terms and conditions of employment.

If you have been discriminated against, you may file a complaint with the Missouri Commission on Human Rights. Visit **www.labor.mo.gov/mohumanrights** for more information.



DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS

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*Missouri Department of Labor and Industrial Relations is an
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